UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JAMES W. CAUGER, ***et al.*** **Plaintiffs** **v.** **TEXAS INSTRUMENTS, INC. and JOHN DOE** **Defendants**	**CIVIL ACTION NOS.** **1:16-cv-10358-DPW** **1:16-cv-12338-DPW** **1:16-cv-12339-DPW** **1:16-cv-12341-DPW** **1:16-cv-12342-DPW** **1:16-cv-12343-DPW** **1:16-cv-12345-DPW** **1:16-cv-12352-DPW** **1:16-cv-12353-DPW** **1:16-cv-12354-DPW** **1:16-cv-12355-DPW** **1:16-cv-12356-DPW** **1:16-cv-12357-DPW** **1:16-cv-12358-DPW** **1:16-cv-12359-DPW** **1:16-cv-12360-DPW** **1:16-cv-12361-DPW** **1:16-cv-12362-DPW** **1:16-cv-12363-DPW** **1:16-cv-12364-DPW** **1:16-cv-12365-DPW** **1:16-cv-12366-DPW** **1:16-cv-12367-DPW** **1:16-cv-12368-DPW** **1:16-cv-12369-DPW** **1:16-cv-12373-DPW**

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1 AND THE SEPTEMBER 20, 2016 BENCH ORDER OF THE COURT

The parties in the above-captioned actions file this Joint Statement as ordered by the Court at the Initial Scheduling Conference held on September 20, 2016 and in anticipation of the November 29, 2016 Status Conference.[1]

[1] Texas Instruments Incorporated ("TI") does not consent to the consolidation of any of the 26 individual actions set forth in the caption above, and reserves all rights regarding same. TI's submission of this joint statement is solely for purposes of the November 29, 2016 Status Conference, as ordered by the Court.

I. The Parties' Agreed-Upon Proposed Agenda For Status Conference

1. Consideration of TI's anticipated motion(s) to dismiss. The parties propose that the following schedule govern motion practice regarding any motion(s) to dismiss:

   February 3, 2017 – TI files its motion(s) to dismiss.

   April 3, 2017 – Plaintiffs file their opposition to TI's motion(s) to dismiss.

   A. Reply Brief

   TI's Position. TI files its reply(ies) in support of its motion(s) to dismiss by April 24, 2017.

   Plaintiffs' Position. It is anticipated that TI will file a Motion with the Court for Leave to file a Reply Brief in support of its motion(s) to dismiss; if so granted Reply Brief due April 24, 2017.

2. Potential schedule for pleadings and motion practice, pending ruling on TI's anticipated motion(s) to dismiss.

3. Potential schedule for discovery, pending ruling on TI's motion(s) to dismiss and considering the exceptional circumstances justifying enlargements of time.

II. The Parties' Position Regarding Exceptional Circumstances Pertaining To Joint Discovery Plan[2]

The Parties request a departure from the time during which the Court ordinarily permits discovery and, where appropriate, the filing of dispositive motions. This departure is warranted due to the number of Plaintiffs, the complex nature of the actions, and the anticipated historical analysis required in the early stages of discovery to narrow the legal and factual issues.

There are twenty six (26) Plaintiffs (comprised of individuals and estates) each with separate complaints and factual allegations. Plaintiffs allege that they or their decedents were employees of TI for various lengths of time over a span of more than fifty (50) years. Plaintiffs further allege that they developed various cancers (*e.g.*, thyroid cancer, appendix cancer, breast cancer, lung cancer, prostate cancer, colon cancer, leukemia, testicular cancer) as a result of exposure to toxic substances at multiple buildings and sites located on TI's manufacturing facility in Attleboro, Massachusetts and during the course of their employment by TI.

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[2] TI believes that discussion of discovery is premature because of TI's anticipated motion(s) to dismiss plaintiffs' Second Amended Complaints. Consequently, the nature and scope of Plaintiffs' allegations and legal theories, let alone necessary discovery, is undetermined and will remain so until the close of pleadings and motion practice regarding same. Nevertheless, the parties propose this Joint Discovery Plan herein in compliance with the Court's September 20, 2016 bench order regarding a further Status Conference.

Given the current number of Plaintiffs, the potential of additional, necessary parties to this action, and the extensive medical, employment, and historical information and events that must be researched, and the complex nature of the allegations contained in the various Second Amended Complaints, the parties respectfully request that the Court enlarge the ordinary time permitted for discovery.

A. Plaintiffs' Additional Position Regarding Exceptional Circumstances Pertaining To Joint Discovery Plan

It is the Plaintiffs' position that the complex nature of TI's corporate structure and the structure of the various entities now merged or combined with TI, are important elements to the Plaintiffs' claims against TI that is believed to now be the sole surviving entity. The Plaintiffs expect their discovery to be difficult and time consuming due to the fact that many of the pertinent events date back over (60) years and involves several government agencies and other entities no longer in existence.

III. Joint Proposed Discovery Plan

1. **Initial Disclosures** – Fed. R. Civ. P. 26(a)(1) initial disclosures shall be served no later than fourteen (14) days after an Answer is served.

2. **Medical Authorizations** – Plaintiffs shall produce executed authorizations for record collection, including medical (including without limitation, pursuant to the Health Insurance Portability and Accountability Act) and Social Security Administration records, no later than forty-five (45) days after an Answer is served.

3. **October 13, 2017 –** Plaintiffs shall produce their respective radiology/pathology reports regarding their alleged diagnosis.

4. **November 16, 2018 –** All written fact discovery completed.

5. **January 18, 2019** – All fact depositions completed.

6. **February 15, 2019 –** Plaintiffs' identification of trial experts and associated Fed. R. Civ. P. 26(a)(2) disclosures (including written expert reports) served.

7. **April 19, 2019 –** Defendant's identification of trial experts and associated Fed. R. Civ. P. 26(a)(2) disclosures (including written expert reports) served.

8. **July 19, 2019 –** Plaintiffs' trial expert depositions completed.

9. **August 16, 2019 –** Defendant's trial expert depositions completed.

IV. Proposed Schedule For The Filing Of *Daubert* And Dispositive Motions

1. **September 20, 2019 –** *Daubert* motions, motions for judgment on the pleadings, and/or motions for summary judgment, if any, filed.

   (a) Oppositions or responses to *Daubert* motions, motions for judgment on the pleadings, and/or motions for summary judgment, if any, filed within thirty (30) days of the date of filing of the respective motion.

   (b) Reply to opposition to *Daubert* motions, motions for judgment on the pleadings, and/or motions for summary judgment, if any, filed within fifteen (15) days of the date of filing of the respective opposition or response.

2. Following the decisions and disposition of all dispositive motions, and if necessary, the parties defer to the Court for the scheduling of Pre-Trial Conference(s) amenable to the Court's calendar.

V. Magistrate Judge

The parties do not consent to trial by Magistrate Judge.

VI. Certifications

The parties assert they have filed, individually, certifications pursuant to Local Rule 16.1(d)(3) in the first-filed action captioned *James W. Cauger v. Texas Instruments Incorporated, et al.*, Civil Action No. 1:16-cv-10358-DPW.

VII. The Parties' Designation Of Other Matters For Consideration

1. **Anticipated Motion(s) to Dismiss**. The parties request that the Court hear argument on TI's anticipated motion(s) to dismiss at any time convenient to the Court, and that any discovery and subsequent dispositive motion scheduling issues, notwithstanding the proposals set forth herein, be reserved until a decision on such motion(s) to dismiss. *See* n.1.

2. **Discovery Event Limitations**.

   A. TI's Position As to Discovery Event Limitations

   The discovery event limitations imposed under Fed. R. Civ. P. 26.1(c) shall not apply to TI, as it must engage in discovery of twenty six (26) Plaintiffs involving extensive medical and employment histories involving alleged decades-long exposure(s).

B. Plaintiffs' Position as to Discovery Event Limitations

The discovery event limitations shall not apply to the Plaintiffs, as they must engage in discovery that dates back over sixty (60) years and involves many different entities that now are all believed to have been merged or combined in some manner with TI, as well as engage in discovery with government agencies and other entities that are no longer in existence.

3. **Settlement Discussions**. Plaintiffs have not served TI with any settlement proposal.

A. Plaintiffs' Additional Designation Of Other Matters For Consideration

(1) **Settlement Discussions**. TI has not served Plaintiffs with any settlement proposal.

Respectfully submitted,

TEXAS INSTRUMENTS INCORPORATED
By its attorneys,

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Dated: November 28, 2016

CERTIFICATE OF SERVICE

I Fiore Porreca hereby certify that this document filed through the CM/ECF system will be served electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be served via First-Class U.S. Mail to those indicated as non-registered participants, on November 28, 2016.

Dated: November 28, 2016 ________________